

INSURANCE

Mike Johanns
Governor

L. Tim Wagner
Director

Director Holds Hearings To Adopt New Regulations

On November 3, the Department held a hearing on the adoption of Chapter 79, "Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits Model Regulation." The rule establishes 2001 CSO Tables as the mortality tables for life insurance issued by insurers. If the insured event is the insureds' mortality, some measure of life expectancy is necessary if the insurer is to establish sufficient reserves on which to base the financial backing of the product. As life expectancy has increased, the probability of death occurring in a given year has declined, and therefore the reserves established to support life insurance policies written today would be greater than they need to be for solvency. Adoption of the new standards will allow insurers to establish lower reserves, and perhaps charge lower rates for life insurance. Insurers will be allowed to use the new tables starting January 1, 2004.

In addition, Chapter 77, "Standards for Safeguarding Customer Information," became effective October 1. The regulation establishes standards that insurance entities must meet in the development and implementation of administrative, technical and physical safeguards to protect the security, confidentiality and integrity of customer information. The Department was required to adopt a rule for these safeguards by Congress in Sections 501, 505 (b), and 507 of the Gramm-Leach-Bliley Financial Services Modernization Act, codified as 15 U.S.C. 6801, 15 U.S.C. 6805, and 15 U.S.C. 6807. The Department met this responsibility by adopting the NAIC Model Regulation, and has conformed closely to the Model.

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CONSUMER AFFAIRS DIVISION

Personnel Change

Karen Dyke has transferred from our Market Conduct Division to work as an insurance investigator in the Consumer Affairs Division.

Karen Dyke, an insurance examiner in our Market Conduct Division for the past 17 years, has transferred to the Consumer Affairs Division to work as an insurance investigator. Karen's primary focus will deal with property/casualty insurance matters.

Increasing Public Awareness of Unauthorized Insurers

One important service that producers can provide to their clients is to help raise their level of awareness about unauthorized insurers and the ensuing problems that can result from buying insurance from an unauthorized company.

One important service that producers can provide to their clients is to help raise their level of awareness about unauthorized insurers and the ensuing problems that can result from buying insurance from an unauthorized company. There are a wide variety of schemes that take advantage of opportunities created by the tight insurance market and rising cost of health insurance.

Some of the schemes appear to be genuine at first, perhaps paying claims for a while but eventually fall apart as their ability to pay comes to an end.

Checking with the Department of Insurance to determine a company's licensing status is one way to avoid buying from an unauthorized or fraudulent company. Even that precaution can sometimes fail, as there have been reported instances of schemes that adopt a legitimate company name to lure in unwary buyers. Placing business with someone established that you know and trust is always a good piece of advice.

Checking with the Department of Insurance to determine a company's licensing status is one way to avoid buying from an unauthorized or fraudulent company.

The NAIC is currently looking at this issue to determine how it can assist states in educating consumers. We expect there will soon be increased efforts in getting the message out to consumers.

Frequently, we find the consumer's dissatisfaction and frustration has been compounded by the inability or unwillingness of agents or home office personnel to explain the specific factors used in calculating a credit score for underwriting and rating purposes.

Explaining to policyholders how he or she can obtain a copy of the credit report, correct erroneous information in the credit report, or take action to improve an existing score will hopefully reduce the number of complaints registered with us.

We understand that insurers are not credit counselors, but will appreciate your efforts to explain the company's rating and underwriting practices.

Explaining Credit Scoring To Policyholders

For several years now, credit scoring has been included among the factors commonly utilized by the insurance industry in making rating and underwriting decisions. It is still a "hot topic" for the Consumer Affairs Division, however, and we regularly receive complaints, e-mails and phone calls from consumers regarding this issue. Many policyholders do not understand the relevance of personal credit histories to the rates they pay for insurance coverage, or to their eligibility for coverage. Frequently, we find the consumer's dissatisfaction and frustration has been compounded by the inability or unwillingness of agents or home office personnel to explain the specific factors used in calculating a credit score for underwriting and rating purposes.

A number of carriers have initiated programs to provide a substantive response to policyholders with concerns relating to the use of credit scoring. We commend you for your efforts and encourage other insurers to consider similar campaigns. Even though it may not mean immediate relief, a consumer will generally appreciate additional information explaining how he or she can obtain a copy of the credit report, correct erroneous information in the credit report or take action to improve an existing score. Extra effort on your part, to ensure that agents and customer service representatives are effectively communicating with your policyholders about this issue, will hopefully result in a reduction in the number of complaints registered with the Consumer Affairs Division.

If you are asked to prepare a response to a consumer complaint from the Department of Insurance, please make every effort to adequately address your policyholder's concerns. Provide complete information regarding all of the factors impacting his or her rates, including the credit score; describe specific "drivers" that may have resulted in a lower than expected credit score; and offer suggestions, where possible, for correcting or improving the score and reducing the overall premium. We understand that insurers are not credit counselors, but will appreciate your efforts to explain, for the benefit of your policyholders, the company's rating and underwriting practices.

Problems Encountered with Implementation of HIPAA Electronic Code Set

The Department is concerned that many payors' automated claim handling systems might automatically generate claim denials if claims are received outside of times specified in many managed care contractual agreements.

The Department has been informed of disruptions in electronic claim filing systems that occurred as a result of HIPAA Code Set Implementation problems. Some of these disruptions involve large clearinghouse vendors, having the potential to impact numerous providers and payors.

The Nebraska Department of Insurance is concerned that many payors' automated claim handling systems might automatically generate claim denials if claims are received outside of times specified in many managed care contractual agreements. Resulting claim denials would most likely generate numerous appeals and unfavorably impact plan members and medical providers.

The Department urges insurers and health plan payors to provide a reasonable filing time accommodation to providers until the electronic filing problems can be addressed.

The Nebraska Department of Insurance urges insurers and health plan payors to provide a reasonable filing time accommodation to providers until such time as the clearinghouses and networks can address the electronic filing problems.

Amendments to Title Insurance Regulation

LEGAL DIVISION

Section 006 is a new section to set standards for the title insurer's on-site review of the title agent's underwriting, claims and escrow practices.

The Department is in the process of amending Title 210 Nebraska Administrative Code Chapter 34, "Title Insurance." The amendments delete outdated provisions of the title insurance regulation and address sections of the Title Insurers and Title Insurance Agent Acts which allow the department to set standards for a title insurer's onsite review (a market based review) of a producer or agency and to set standards and the form of audit for the annual certified public accountant audit.

The on-site review also includes a review of the title insurance agent's title insurance policy form inventory and processing operations.

Of primary interest is the addition of Sections 006 and 007. Section 006 is a new section to set standards for the title insurer's on-site review of the title agent's underwriting, claims

Section 007 is also a new section providing the standards for the title insurance agent's certified public accountant audit—an audit required of every title agent beginning January 1, 2004.

These audit standards will be used to check not only the title insurance agent's financial record keeping, but also to examine for evidence of agent defalcation of escrow funds through bank accounts.

It is anticipated that the regulation will be effective January 1, 2004.

It is anticipated that public hearings will be scheduled to update Chapters 22, 55, and 56 with changes effective in early 2004.

and escrow practices. The on-site review also includes a review of the title insurance agent's title insurance policy form inventory and processing operations. The on-site review is required pursuant to Neb. Rev. Stat. §44-1993. Section 007 is also a new section providing the standards for the title insurance agent's certified public accountant audit.

Beginning January 1, 2004, every title agent must have an annual certified public accountant audit as required by Neb. Rev. Stat. §44-19,116 (2). These standards were developed with the assistance of certified public accountants and will be used to check not only the title insurance agent's financial record keeping, but also to examine for evidence of agent defalcation of escrow funds through bank accounts.

The amendments to Chapter 34 have been in the development stage for quite some time. The Department held two public hearings with the industry to review the proposed amendments. The first hearing was held on August 18, 2003 during which the Department received a number of comments from the public. It was determined that changes to the draft would be necessary and a second public hearing should be held.

After changes to the amendments, the Department held a second hearing on October 20, 2003 to give the public further opportunity to comment. It is anticipated that the regulation will be effective January 1, 2004 to correspond with the statutory certified public accountant audit requirement in Neb. Rev. Stat. §44-19,116(2).

Amended Regulations Anticipated For Early 2004

The Department is currently reviewing regulations found at Title 210 Nebraska Administrative Code to determine which regulations need amended or updated. It is anticipated that Chapters 22, 55, and 56 will be updated with changes effective in early 2004. In addition, we anticipate there will be a housekeeping amendment to several regulations to correct typographical and numbering errors and citation corrections. Public notice will be provided prior to the public hearings.

Actions Taken Against Agents

CAUSE NO.	ALLEGATION	DISPOSITION
A-1505 <i>Mark Porter</i> Omaha, NE	Violated <u>Neb.Rev.Stat.</u> §§44-1524, 44-5905 (2)(b)(i), & Title 210, Chapter 19 §006. Unfair trade practices; failed to retain market conduct records for 4 years; failed to meet duties required of agents and brokers on a replacement policy.	Order Agent's license suspended 8/21/03
A-1508 <i>Jerome J. O'Connor, Jr.</i> Omaha, NE	Violated <u>Neb.Rev.Stat.</u> §§44-1525(11). Failed to respond to Department within 15 business days.	Consent Order \$750 admin. fine 7/24/03
A-1510 <i>Victor Young</i> Falls City, NE	Violated <u>Neb.Rev.Stat.</u> §§44-1525(11) & 44-4059(1)(b). Failed to respond to Department within 15 business days; violated any insurance law, rule, regulation, subpoena or order of the director.	Order \$1,000 admin. fine 8/28/03
A-1512 <i>Kent J. Carter</i> McCook, NE	Violated <u>Neb.Rev.Stat.</u> §§44-4059(1)(b). Violated an order of the director.	Consent Order \$500 admin. fine; 45-day agent license suspension 10/06/03
A-1513 <i>Jamie Schmeiding</i> Lincoln, NE	Hearing for denial of application for agent's license based on <u>Neb.Rev.Stat.</u> §§44-4059 (1)(f).	Order Agent's license granted 8/29/03
A-1514 <i>Charles D. Davis</i> Omaha, NE	Violated <u>Neb.Rev.Stat.</u> §44-4059(1)(b). Violated an order of the director.	Order \$1,000 admin. fine; 1-year agent license suspension 10/06/03
A-1515 <i>Jeffrey Machmuller</i> Lincoln, NE	Hearing for denial of application for agent's license based on <u>Neb.Rev.Stat.</u> §44-4059(1)(f).	Order License denial upheld 10/06/03
A-1516 <i>Ralph Calvin Young, Jr.</i> Omaha, NE	Violated <u>Neb.Rev.Stat.</u> §44-4059(b) & 44-1525(11). Violated any insurance law; failure to respond to the department within 15 business days.	Order \$750 admin. fine; required to attend continuing education course. 6/3/03



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EXAMINATION DIVISION

Pre-Need Exams Completed During Third Quarter, 2003

Evergreen Memorial Park
Generations
John A. Gentleman Mortuaries
Professional Funeral Services, Inc. d/b/a Bethany Funeral Home
Tibbetts Brothers, Inc.-Megrue-Price & Klawitter-Price
Wagner Funeral Home, Inc.
Wenburn Funeral Home-Arapahoe, Inc.

Financial Examinations Completed During Third Quarter, 2003

Boone and Antelope Mutual Insurance Company
Capitol Casualty Company
Employers Mutual Acceptance Company
First National Life Insurance Company of the USA
Furnas County Mutual Life Association
Medico Life Insurance Company
Mutual Protective Insurance Company
National Plate Glass Mutual Insurance Company
Olive Branch Assessment Insurance Society, Inc.
Republican Valley Mutual Protective Association
United Mutual Life Association
Valley Mutual Protective Association
Woodmen of the World Life Insurance Society

Financial examination reports become public documents once they have been placed on official file by the Department. Copies may be obtained from the Department at the cost of \$.50 per page.



Department Calendar

<u>November 27-28:</u>	Department Closed - Thanksgiving
<u>December 25:</u>	Department Closed - Christmas
<u>January 1:</u>	Department Closed - New Year's Day
<u>January 19:</u>	Department Closed - Martin Luther King Day

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